

Proposed Farmland Preservation amendments to the Waukesha County Zoning Code- Draft- as of 7/8/15

Section 6.1 A-P Agricultural Land Preservation District is hereby repealed and re-created as follows:

SECTION 6.1 FLP FARMLAND PRESERVATION DISTRICT

6.11 Purpose and Intent

The intent and purposes of the FLP Farmland Preservation District are:

1. To maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses.
2. To maintain a viable agricultural base and associated agricultural supportive uses.
3. To protect and preserve the rural landscape.
4. To implement the provisions of the Waukesha County Farmland Preservation Plan.
5. To comply with the provisions of the Wisconsin Farmland Preservation Law which permits eligible landowners to receive tax credits under Section 71 of the Wisconsin State Statutes.
6. To maintain a use that adds to the economic base of the County.

6.12 Lands to be included within the FLP Farmland Preservation District. Lands that are to be included or mapped within the FLP District are limited to those lands that have been designated for farmland preservation in the adopted Waukesha County Farmland Preservation Plan.

6.13 Land Uses in the FLP Farmland Preservation District; General. Only the following land uses are allowed in a Farmland Preservation District:

- A. Uses allowed under Section 6.14 as a Permitted Use.
- B. Uses allowed under Section 6.15 with a Conditional Use Permit.
- C. Legal nonconforming uses, subject to Wisconsin State Statutes.

6.14 Use Regulations: Permitted Uses

- A. Agricultural uses as defined in this Ordinance.
- B. Agricultural accessory uses as defined in this Ordinance and subject to the following requirements:
 1. Caretaker's quarters/living unit if the unit is within 200 feet of the existing cluster of farm buildings, is served by a common driveway, and is intended and

necessary for the farm operation and provides a living unit or quarters for hired employees of the farming operation and their immediate family. Only one caretaker's living unit is permitted on a lot.

2. Home occupations as regulated in Section 7.01(F) of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).
 3. Hobby kennels as regulated in Section 7.01(I) of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by DATCP.
 4. Farm buildings housing animals, barnyards, and feedlots that are not located within a floodland, nor closer than one hundred (100) feet to any navigable water course, nor closer than one hundred (100) feet to an existing adjacent dwelling.
 5. Road Side Stands.
 - a. Temporary road side stand structures shall be no more than 100 square feet in size.
 - b. Off-street parking for a minimum of five (5) vehicles must be provided and there shall be no parking within the right-of-way of the public road.
 - c. No such stand shall be closer than thirty (30) feet to the base setback line or closer than twenty (20) feet to any lot line.
 - d. Only produce and farm products can be displayed for sale.
 - e. Road side stands with a permanent building shall require Site Plan and Plan of Operation approval in accordance with Section 3.03(6) of this Ordinance and shall comply with all size and locational requirements of the zoning district in which a stand is located.
 6. Nurseries, orchards, greenhouses/horticulture/floriculture, viticulture, apiculture, forestry, and hatcheries limiting the retail sales of such product to that which is produced on the premises by the farm operator.
 7. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.
- C. Agriculture-related uses as defined in this Ordinance and subject to the requirements of Chapter 91 of the Wisconsin Statutes and subject to the review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3.03(6) of this Ordinance.

- D. Pre-existing nonfarm residences that existed as of January 1, 2014 and existing farm residences.
- E. A transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc) transmission, distribution, or pipeline, drainage, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that pre-empts the requirement for a Conditional Use Permit for that use as outlined in Section 6.15(C)(3) below.
- F. Legal non-conforming uses.
- G. Other uses identified by DATCP rule and which are deemed consistent with the stated purpose and intent of this District subject to approval of the Town Plan Commission and the Zoning Administrator. The Zoning Administrator shall make a determination as to whether such uses must obtain Conditional Use approval for unspecified uses.

6.15 Use Regulations: Conditional Uses

- A. Conditional uses as provided for in Section 3.08 and Section 6.15(C) and pursuant to the procedural requirements of Section 3.08, and if all of the following apply:
 - 1. The use and its location in the FLP District are consistent with the purposes and intent of the FLP District.
 - 2. The use and its location in the FLP District are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 3. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - 4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 5. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
 - 6. The use does not conflict with surrounding land uses.

The following additional standards apply to Non-Metallic Mineral Extraction or Quarrying Conditional Use requests:

- 7. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable

provisions of local ordinances under Wis. Stat. § 295.13 or Wis. Stat. § 295.14 (including all applicable provisions of this Ordinance), and with any applicable requirements of the Department of Transportation concerning the restoration of nonmetallic mining sites.

8. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
 9. The requirements of 3.08(S) of the Ordinance shall be met.
- B. Prior to the issuance of a Conditional Use Permit for an approved Conditional Use in the FLP District, any requirements listed for an individual Conditional Use under Section 3.08(7), in Section 6.15 of the FLP District, or imposed as part of the Conditional Use approval must first be satisfied.
- C. The list of Conditional Uses that may be applied for within the FLP District is as follows:
1. Government, nonprofit community uses, institutional, buildings for religious assembly, cemeteries and mausoleums for the burial of human remains only, and other public and semi-public buildings and uses – as defined in this Ordinance.
 2. Non-Metallic Mineral Extraction or Quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., sand and gravel removal on non-productive lands, for example)
 3. Transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc) transmission, distribution, or pipeline, drainage, or other uses not allowed as a permitted use in Section 6.14(C)(6) above.
 4. Animal Hospitals and Veterinarian Clinics; and Commercial Dog Kennels but only if they comply with the Farm Family Business provisions of ATCP 49.
 5. Commercial Fish or Bait Ponds or Hatcheries
 6. Commercial Truck Parking, except that such use may be allowed but only if incidental to and compatible with the continued long term agricultural use of the lands as determined by the Town Plan Commission and the County Zoning Administrator and comply with the Farm Family Business provisions of ATCP 49.
 7. Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations
 8. Landing Fields and Take Off Strips serving agricultural or municipal uses.
 9. Other uses, situations, or non-farm type businesses not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 6.15 and in the judgment of the Town Plan Commission and County Zoning Agency, meet the intent of a conditional use as

set forth in Section 3.08(1) and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

10. Private Clubs and Resorts (including commercial boarding stables), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., private hunt clubs during the non-growing season, for example).

6.16 Building Location

A. Road Setback:

1. Residential Use Structure: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance.
2. Accessory or Farm Building: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

B. Offset:

1. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.
2. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

- C. Shore/C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance.

6.17 Height Regulations

A. Residential buildings:

1. Residence: Thirty-five (35) feet maximum.
2. Accessory: Twenty (20) feet maximum.

B. Farm buildings:

1. Sixty (60) feet maximum.
2. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, shore/C-1 setback, and offset all equal or exceed the height of the structure.

- C. Refer to Section 3.10 of this Ordinance for additional height regulations.

6.18 Area Regulations

- A. Floor area, minimum required: Minimum first floor - nine hundred (900) square feet.
Total floor area - one thousand one hundred (1,100) square feet.
- B. Maximum floor area ratio permitted: Ten (10) percent.

6.19 New Residences and Lots

New residences and new lots or parcels of less than 35 acres shall be prohibited on lands zoned FLP District and shall only be authorized if in accordance with the following requirements:

- A. Rezoning required. New residences and new lots or parcels of less than 35 acres in area are not permitted within the FLP District without the benefit of rezoning. If a new residence or lot of less than 35 acres is proposed for lands currently zoned FLP District, the land must first be rezoned to the R-1 Residential District where farm or non-farm residences are a permitted use. Lands to be rezoned must comply with the density parameters of the Comprehensive Development Plan for Waukesha County that are described in detail in Section 6.19(B) below. Prior to submitting an application to rezone lands currently zoned FLP District, petitioners shall participate in a concept review meeting to be held with the respective town Planner and Waukesha County Planning & Zoning Staff to discuss proposed density and lot siting and compliance with the below stated requirements of this section.
- B. Density. A maximum density of one (1) dwelling unit per thirty-five (35) acres shall be permitted for lands designated for Farmland Preservation on the adopted Comprehensive Development Plan for Waukesha County. Existing dwelling units and land divisions that have taken place after the dates specified below shall be used in computing available density. If part of a parcel is within the County's shoreland jurisdictional area, the entire property's acreage, number of existing dwelling units and prior land divisions from parent parcels shall be considered in determining available density.
 - 1. Density Considerations- land divisions after January 1, 1997: New lots or parcels of less than 35 acres that were created from a parent parcel or parcels that comprised a farm, as it existed on January 1, 1997, and that were located on lands designated "Agricultural Preservation" or "Farmland Preservation" at the time of land division on the Comprehensive Plan for Waukesha County, shall be counted in determining the available density or "development rights" remaining for a farm as it was configured on May 31, 2015. The number of available development rights shall be reduced by one development right for each such lot that was created after January 1, 1997. Farm boundaries, as of May 31, 2015, have been mapped on the "Farm Tracking Unit" layer on the Waukesha County GIS website in order to make available density information readily available. Density tracking is further described in Section 6.19(B)(4).

Example: 105 acre farm comprised of two parcels in the same ownership.

Step 1- 35 Acre Density Calculation = 105 acres/35= 3 (Maximum number of dwelling units before consideration of existing dwelling units and recent land divisions).

Step 2- Account for existing dwelling units and land divisions that created parcels of less than 35 acres after January 1, 1997: The farm contains one house. (counts as one dwelling unit) and a lot of less than 35 acres was split from the farm by Certified Survey Map in 2001 (counts as second available dwelling unit)= total of 2.

Step 3- Subtract total of Step 2 from Step 1 to adjust for existing dwelling units and parcels of less than 35 acres created since January 1, 1997. (3 minus 2= 1).

*Summary- Available dwelling units/Development rights:
Farm is entitled to one additional dwelling unit or development right.*

2. Density Exception for Legal Lots of Record that existed on May 31, 2015: Existing legal lots of record as of May 31, 2015 that are less than thirty-five (35) acres in size shall be entitled to one (1) dwelling unit if a dwelling unit does not already exist on the parcel, with the following exceptions:
 - a. If new lots or dwelling units have been created from a parent parcel or farm after 1997 without the benefit of a comprehensive development plan amendment from the Farmland Preservation category to another appropriate land use category, and thirty-five (35) acre density cannot be maintained with the addition of another dwelling unit, then no additional dwelling units are permitted.
 - b. If a prior imposed rezoning condition, deed restriction, conveyance, or some other official action prohibiting future land splits or dwelling units exists, then no additional dwelling units shall be permitted on said existing legal lot of record.
3. Review of Land Divisions. All land divisions, including transfers of adjacent land, that are proposed in towns that are subject to the Waukesha County Zoning Code and involve land that is in the planned “Farmland Preservation” category of the Comprehensive Development Plan for Waukesha County shall be reviewed and approved by the respective town and Waukesha County, regardless of whether the parcel contains shoreland jurisdiction, so that Development Plan density compliance can be ensured and tracked over time.

Each residence that is permitted shall be placed on a separately described parcel created in conformance with the town and County Comprehensive Development Plans, the Farmland Preservation Plan, the minor land division regulations of the town in which they are located, this Ordinance, and the Waukesha County Shoreland Floodland Subdivision Control Ordinance (Appendix D), as applicable.

4. Density Tracking. Available density or dwelling units are tracked by a mapping layer on the Waukesha County Geographic Information System. Each farm consisting of one or more contiguous parcels that were owned by a common owner or owners as of May 31, 2015 have been assigned a “Farm tracking unit” name and number. Farm tracking units have been created to track the number of

lots or dwelling units (development rights) that a farm or farm owner is entitled to when applying the density considerations of Section 6.19(B)(1)(2).

Each time that a new dwelling unit or lot is created in the future, in accordance with the standards of Section 6.19, the farm tracking unit data will be updated on the Waukesha County GIS. In addition, a deed restriction must be recorded against the land to disclose the remaining density available to a given farm tracking unit.

5. Density Transfer. Transfer of density rights from one farm tracking unit to another farm tracking unit or property must be approved by the respective town and Waukesha County Zoning Administrator and will be tracked on the farm tracking unit Waukesha County GIS layer. A deed restriction must be recorded against the land to disclose the density transfer.

C. Siting Standards.

Lands that are zoned FLP but that are proposed to be rezoned to the R-1 District to accommodate new non-farm residences must comply with the following siting standards. Compliance with siting standards shall be considered by the town and Waukesha County as part of the rezoning review process.

1. New residences or lots shall be located on uncultivated lands to the greatest extent practicable.
2. New residences or lots shall be clustered together to the greatest extent practicable.
3. New residences or lots shall be located on non-prime (non-Class I and II) soils to the greatest extent practicable.
4. New residences or lots may be permitted within upland environmental corridor areas that are zoned FLP District with an EC Overlay District designation provided that the area to be disturbed is rezoned to the R-1 District and provided that the respective town and County have made a determination that alternative building sites located outside of the environmental corridor and cultivated lands are not available. If such a determination is made, the maximum area of environmental corridor disturbance shall be 15,000 square feet per lot, inclusive of drive areas, septic sites, building sites and any other area to be disturbed. In addition, any authorized disturbance within the environmental corridor shall comply with County Comprehensive Development Plan recommendations which call for no more than one dwelling unit per five acres of upland area. A deed restriction shall be recorded in the office of the Register of Deeds identifying and describing the permitted area of environmental corridor disturbance prior to Zoning Permit issuance.
5. Lots shall be located near existing roads to the extent practicable with consideration of the above stated criteria.

D. Lot Size requirements for Lots created by rezoning from the FLP District to the R-1 District

1. Minimum parcel size, one (1) acre.
 2. Minimum average width for parcels, one hundred and fifty (150) feet.
 3. Maximum parcel size, three (3) acres, except as may be provided in Section 6.19(E) below for those residual existing dwellings and parcels that result due to farm consolidation.
- E. Lot Size for Farm Consolidations created by rezoning from the FLP District to the R-1 District
1. Minimum parcel size, one (1) acre.
 2. Minimum average width: One hundred and fifty (150) feet.
 3. Maximum parcel size, five (5) acres.

6.19a. Rezoning Land Out of the FLP District

- A. Except as provided in Section 6.19a(B), lands may not be rezoned out of the FLP District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
- A. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - B. The rezoning is consistent with any applicable comprehensive plan.
 - C. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.
 - D. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- B. Subsection 6.19a(A) does not apply to any of the following:
1. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.
 2. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
- C. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLP District during the previous year and a map that clearly shows the location of those acres.

Section 6 A-E Exclusive Agricultural Conservancy District is hereby repealed and re-created as follows:

SECTION 6 FLC FARMLAND CONSERVANCY DISTRICT

A. Purpose and intent

This district is intended to apply to those areas that are designated on the Comprehensive Development Plan for Waukesha County for Farmland Preservation and which are presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and/or the presence of natural vegetation indicative of wet soils. The intent of the district is to preserve and maintain agricultural uses on lands suited for such purposes. They often include lands poorly suited for urban or suburban development while being particularly well suited for some types of agricultural use.

In this district, structures related to farm operations, including existing dwellings, are deemed consistent with the purpose of this section where the location of buildings associated with the permitted agricultural operation is found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. Determination of such suitability shall be evidenced by on-site examination and evaluation. The intent for mapping purposes is that lands within this district shall have exhibited those agricultural uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. If a new lot of less than 35 acres is proposed and a portion of the lands to be included in the lot area are zoned FLC District, said lands may only be included within the lot area if the proposal complies with the siting, density, area, etc. parameters of the FLP District.

B. Use regulations: Permitted uses

1. Any uses and structures permitted in the C-1 Conservancy district and if located in a wetland, the provisions of Section 5 shall apply.
2. Agricultural uses, as defined within this Ordinance.
3. Buildings normally associated with permitted agricultural operations including existing single-family dwellings and shelters for housing animals, except that no structure shall be located in a wetland or upon lands not suited due to soil limitations.
4. Nurseries, greenhouses and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3.03(6) of this Ordinance.
5. Road side stands, subject to the provisions of Section 6.14(B)(5).
6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.

C. Conditional uses

Conditional uses, as provided in Section 4(g) and listed below, and in accordance with the procedural requirements of Section 4(g) and the provisions of Section 6.15:

1. Landing Fields and Take Off Strips serving agricultural or municipal uses.
2. Commercial Fish or Bait Ponds or Hatcheries.
3. Fur Farms, Pig Farms, Creameries, Condensories, Commercial or Custom Grain Drying Operations.
4. Existing non-metallic mineral extraction or quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands which make up the major portion of lands in the FLP District (i.e., sand and gravel removal on non-productive lands, for example).

D. Building location

1. Setback: Thirty-five (35) feet minimum
2. Offset: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

E. Height regulations

1. Residential buildings:
 - a. Residential Use Structure: Thirty-five (35) feet maximum.
 - b. Accessory or Farm Building: Twenty (20) feet maximum.
2. Farm buildings:
 - a. Sixty (60) feet maximum.
 - b. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, shore/C-1 setback and offset all equal or exceed the height of the structure.
 - c. Refer to Section 3.10 of this Ordinance for additional height regulations.

F. Area regulations

1. Floor area: Minimum required for single-family dwelling where permitted.
 - a. Minimum required:
 1. First floor: Nine hundred (900) square feet.

2. Total, one (1) family: One thousand (1,000) square feet.
- b. Minimum and maximum parcel size:
Parcel Size must comply with the parameters of Section 6.19.
- c. Maximum floor area ratio permitted: Ten (10) percent

7. Rezoning lands out of the FLC District

1. Except as provided in Section 6(G)(2), lands may not be rezoned out of the FLP District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - b. The rezoning is consistent with any applicable comprehensive plan.
 - c. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
2. Subsection 6(G)(1) does not apply to any of the following:
 - a. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.
 - b. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
3. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLC District during the previous year and a map that clearly shows the location of those acres.

Section 6.4, A-T Agricultural Land Preservation Transition District is hereby repealed and re-created as follows:

Section 6.4 A-T AGRICULTURAL TRANSITION DISTRICT

A. Purpose and intent

This district is intended to reflect the transitional nature of lands that are currently in agricultural or open space use but are planned for and are likely to be developed for other land uses over time.

B. Land to be included with A-T Agricultural Transition District:

1. Lands used for agricultural purposes.
2. Vacant lands consisting of fallow or natural resource lands.

C. Use regulations: Permitted uses

Any permitted use as described in the A-1 Agricultural District.

D. Conditional uses

Conditional uses as provided in Sections 3.08(7) A, D, E, F, I, K, Q, R, W and X.

E. Building location

1. Road Setback:

- a. Residential Use Structure: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance.
- b. Accessory or Farm Building: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

2. Offset:

- a. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.
- b. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

3. Shore/C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance. All accessory buildings must be seventy-five (75) feet minimum.

F. Height regulations

1. Residential buildings:

- a. Residence: Thirty-five (35) feet maximum.
- b. Accessory: Twenty (20) feet maximum.

2. Farm buildings:

- a. Sixty (60) feet maximum.

- b. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, shore/C-1 setback, and offset all equal or exceed the height of the structure.
- 3. Refer to Section 3.10 of this Ordinance for additional height regulations.

G. Area regulations

- 1. Floor area, minimum required:
 - b. Minimum first floor - nine hundred (900) square feet.
 - c. Total floor area - one thousand and one hundred (1,100) square feet.
- 2. Maximum floor area ratio permitted: Ten (10) percent.

H. Lot size

- 1. Minimum parcel size: Twenty (20) acres.
- 2. Minimum average width: Three hundred (300) feet.

Section 7b HG High Groundwater District is hereby created as follows:

Section 7b HG HIGH GROUNDWATER DISTRICT

A. Purpose and intent

This district is intended to apply to those lands that are mapped as having hydric soil conditions (depth to groundwater of one foot or less) according to the Soil Survey of Milwaukee and Waukesha Counties published by the USDA Soil Conservation Service. Many of these lands contain wetlands and floodplains and, accordingly, are mapped with a C-1 Conservancy Overlay District designation. Other lands with such soil conditions are presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and the presence of natural vegetation indicative of wet soils.

The intent of the district is to preserve and maintain agricultural or open space uses on lands suited for such purposes. These lands are generally poorly suited for urban or suburban development, while lands outside of wetlands are typically better suited for some type of agricultural use. In this district structures related to farm operations, including existing dwellings, are deemed consistent with the purpose and intent of this section where the location of buildings associated with the permitted agricultural operation are found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. The intent for mapping purposes is that lands within this district shall have exhibited agricultural uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. Lands mapped in

this district are typically in the Planned "Other Open Lands to be Preserved" or "Environmental Corridor" comprehensive development plan categories.

B. Use regulations: Permitted uses

1. Any uses and structures permitted in the C-1 Conservancy District and, if located in a wetland, the provisions of Section 5 must be met.
2. Ordinary farm uses, including dairying, livestock, poultry raising, and truck farming.
3. Accessory uses within buildings normally associated with permitted agricultural operations including existing single-family dwellings, shelters for housing animals, except that no structure shall be located upon lands not suited due to soil limitations.
4. Nurseries, commercial greenhouses, and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3.03(6) of this Ordinance.
5. Roadside stands as outlined in Section 6.14(B)(5) of this Ordinance.
6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.

C. Conditional uses

Conditional uses as provided in Section 3.08(7)(A).

D. Building location

1. Road Setback:
 - a. Residential: Fifty (50) feet minimum, unless otherwise excepted in this Ordinance.
 - b. Other: Fifty (50) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.
2. Offset:
 - a. Residential: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.
 - b. Other: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

3. Shore/C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance. All accessory buildings must be seventy-five (75) feet minimum.

E. Height regulations

1. Principal building: Thirty-five (35) feet maximum.
2. Accessory building: Fifteen (15) feet maximum.
3. Refer to Section 3.10 of this Ordinance for additional height regulations.

F. Area regulations

1. Floor area, minimum required:
 - a. Minimum first floor - nine hundred (900) square feet.
 - b. Total - one thousand one hundred (1,100) square feet.
2. Maximum floor area ratio permitted: Ten (10) percent.
3. Minimum parcel size: Five (5) acres, except that for HG lands that lie within a larger parcel or tract of land, the remainder of which is zoned in any other district, said parcel shall comply with the minimum (gross) parcel size requirement of that non HG district.

G. Determination of boundaries

Where on-site evaluation of soil conditions by a certified soil scientist reveals that soils mapped by the USDA as being hydric are found to be mis-mapped, the lands zoned HG District shall be immediately become subject to the district regulations of the zoning district that is mapped on the balance of the property. If no other zoning district has previously been established on another part of the parcel, the lands shall be zoned as used administratively by the Waukesha County Zoning Administrator. If any such lands are part of an environmental corridor, wetland or floodplain, the respective EC Environmental Corridor District Overlay or C-1 Conservancy Overlay shall continue to apply to said lands.

Section 6.8 EC Environmental Corridor Overlay District is hereby created as follows:

Section 6.8 EC ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT

All parameters and requirements of Section 6.7 EC Environmental Corridor District shall apply to lands mapped EC Environmental Corridor Overlay District. Except for lands zoned FLP Farmland Preservation District, the underlying base zoning district designation standards shall only be applicable if an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped. Lands with an underlying zoning designation of FLP Farmland Preservation District shall comply with all more restrictive parameters of the FLP District but shall be allowed limited disturbance within EC areas if authorized in accordance with Section 6.19(C)(4). All references to the EC District or EC Environmental Corridor District within this Ordinance shall also apply to the EC Environmental Corridor Overlay District.

Section 5.02 C-1 Conservancy Overlay District is hereby created as follows:

Section 5.02 C-1 CONSERVANCY OVERLAY DISTRICT

All parameters and requirements of Section 7 C-1 Conservancy District shall apply to lands mapped C-1 Conservancy Overlay District. The underlying base zoning district designation standards shall only be applicable if an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped. All references to the C-1 District or C-1 Conservancy District within this Ordinance shall also apply to the C-1 Conservancy Overlay District.

Miscellaneous Revisions:

Amend various references to the A-E District to either replace or include references to the HG High Groundwater District, as appropriate.

Revise references within the Conditional Use Section to reference new or amended zoning districts (FLP, FLC, AT, AE, HG), as appropriate.

Proposed Farmland Preservation amendments to the Waukesha County Shoreland & Floodland Protection Ordinance- *Draft- as of 7/8/15*

Section 11 A-P Agricultural Land Preservation District is hereby repealed and re-created as follows:

SECTION 11 FLP FARMLAND PRESERVATION DISTRICT

(a) Purpose and Intent

The intent and purposes of the FLP Farmland Preservation District are:

8. To maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses.
9. To maintain a viable agricultural base and associated agricultural supportive uses.
10. To protect and preserve the rural landscape.
11. To implement the provisions of the Waukesha County Farmland Preservation Plan.
12. To comply with the provisions of the Wisconsin Farmland Preservation Law which permits eligible landowners to receive tax credits under Section 71 of the Wisconsin State Statutes.
13. To maintain a use that adds to the economic base of the County.

(b) Lands to be included within the FLP Farmland Preservation District. Lands that are to be included or mapped within the FLP District are limited to those lands that have been designated for farmland preservation in the adopted Waukesha County Farmland Preservation Plan.

(c) Land Uses in the FLP Farmland Preservation District; General. Only the following land uses are allowed in a Farmland Preservation District:

1. Uses allowed under Section 11(d) as a Permitted Use.
2. Uses allowed under Section 11(e) with a Conditional Use Permit.
3. Legal nonconforming uses, subject to Wisconsin State Statutes.

(d) Use Regulations: Permitted Uses

1. Agricultural uses as defined in this Ordinance.

2. Agricultural accessory uses as defined in this Ordinance and subject to the following requirements:
- A. Caretaker's quarters/living unit if the unit is within 200 feet of the existing cluster of farm buildings, served by a common driveway, and is intended and necessary for the farm operation and provides a living unit or quarters for hired employees of the farming operation and their immediate family. Only one caretaker's living unit is permitted on a lot.
 - B. Home occupations as regulated in Section 18(a)6 of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).
 - C. Hobby kennels as regulated in Section 18(a)8 of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by DATCP.
 - D. Farm buildings housing animals, barnyards, and feedlots that are not located within a floodland, nor closer than one hundred (100) feet to any navigable water course, nor closer than one hundred (100) feet to an existing adjacent dwelling.
 - E. Road side stands, subject to the following requirements:
 - 1. Temporary road side stand structures shall be no more than 100 square feet in size.
 - 2. Off-street parking for a minimum of five (5) vehicles must be provided and there shall be no parking within the right-of-way of the public road.
 - 3. No such stand shall be closer than thirty (30) feet to the base setback line or closer than twenty (20) feet to any lot line.
 - 4. Only produce and farm products can be displayed for sale.
 - 5. Road side stands with a permanent building shall require Site Plan and Plan of Operation approval in accordance with Section 3(c)(6) of this Ordinance and shall comply with all size and locational requirements of the zoning district in which a stand is located.
 - F. Nurseries, orchards, greenhouses/horticulture/floriculture, viticulture, apiculture, forestry, and hatcheries limiting the retail sales of such product to that which is produced on the premises by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the Town Plan Commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.
 - G. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.

3. Agriculture-related uses as defined in this Ordinance and subject to the requirements of Chapter 91 of the Wisconsin Statutes and subject to the review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.
4. Pre-existing nonfarm residences that existed as of January 1, 2014 and existing farm residences.
5. A transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc) transmission, distribution, or pipeline, drainage, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that pre-empts the requirement for a Conditional Use Permit for that use as outlined in Section 11(e)(3)(c) below.
6. Legal non-conforming uses.
7. Other uses identified by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) rule and which are deemed consistent with the stated purpose and intent of this District subject to approval of the Town Plan Commission and the Zoning Administrator. The Zoning Administrator shall make a determination as to whether such uses must obtain Conditional Use approval for unspecified uses.

(e) **Use Regulations: Conditional Uses**

1. Conditional uses as provided for in Section 4(g) and Section 11(e)(3) and pursuant to the procedural requirements of Section 4(g), and if all of the following apply:
 - A. The use and its location in the FLP District are consistent with the purposes and intent of the FLP District.
 - B. The use and its location in the FLP District are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - C. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - D. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - E. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
 - F. The use does not conflict with surrounding land uses.

The following additional standards apply to Non-Metallic Mineral Extraction or Quarrying Conditional Use requests:

- G. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. § 295.13 or Wis. Stat. § 295.14 (including all applicable provisions of this Ordinance), and with any applicable requirements of the Department of Transportation concerning the restoration of nonmetallic mining sites.
 - H. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
 - I. The requirements of 4(g)25 of the Ordinance shall be met.
2. Prior to the issuance of a Conditional Use Permit for an approved Conditional Use in the FLP District, any requirements listed for an individual Conditional Use under Section 4(g), in Section 11(e) of the FLP District, or imposed as part of the Conditional Use approval must first be satisfied.
3. The list of Conditional Uses that may be applied for within the FLP District is as follows:
- A. Government, nonprofit community uses, institutional, buildings for religious assembly, cemeteries and mausoleums for the burial of human remains only, and other public and semi-public buildings and uses – as defined in this Ordinance.
 - B. Non-Metallic Mineral Extraction or Quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., sand and gravel removal on non-productive lands, for example)
 - C. Transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc) transmission, distribution, or pipeline, drainage, or other uses not allowed as a permitted use in Section 11(d)6 above.
 - D. Animal Hospitals and Veterinarian Clinics; and Commercial Dog Kennels but only if they comply with the Farm Family Business provisions of ATCP 49.
 - E. Commercial Fish or Bait Ponds or Hatcheries
 - F. Commercial Truck Parking, except that such use may be allowed but only if incidental to and compatible with the continued long term agricultural use of the lands as determined by the Town Plan Commission and the County Zoning Administrator and comply with the Farm Family Business provisions of ATCP 49.
 - G. Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations
 - H. Landing Fields and Take Off Strips serving agricultural or municipal uses.

- I. Other uses, situations, or non-farm type businesses not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 11(e) and in the judgment of the Town Plan Commission and County Zoning Agency, meet the intent of a conditional use as set forth in Section 4(a) and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.
- J. Private Clubs and Resorts (including commercial boarding stables), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., private hunt clubs during the non-growing season, for example).

(f) **Building Location**

- 1. Road Setback:
 - A. Residential Use Structure: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance.
 - B. Accessory or Farm Building: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.
- 2. Offset:
 - A. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.
 - B. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.
- 3. Shore/C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance.

(g) **Height Regulations**

- 1. Residential buildings:
 - A. Residence: Thirty-five (35) feet maximum.
 - B. Accessory: Twenty (20) feet maximum.
- 2. Farm buildings:
 - A. Sixty (60) feet maximum.
 - B. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, shore/C-1 setback, and offset all equal or exceed the height of the structure.

3. Refer to Section 3(i) of this Ordinance for additional height regulations.

(h) **Area Regulations**

1. Floor area, minimum required:
 - A. Minimum first floor - nine hundred (900) square feet.
 - B. Total floor area - one thousand one hundred (1,100) square feet.
2. Maximum floor area ratio permitted: Ten (10) percent.

(i) **New Residences and Lots**

New residences and new lots or parcels of less than 35 acres shall be prohibited for lands currently zoned FLP District and shall only be authorized if in accordance with the following requirements:

1. Rezoning required. New residences and new lots or parcels of less than 35 acres in area are not permitted within the FLP District without the benefit of rezoning. If a new residence or lot of less than 35 acres is proposed for lands currently zoned FLP District, the land must first be rezoned to the R-1 Residential District where farm or non-farm residences are a permitted use. Lands to be rezoned must comply with the density parameters of the Comprehensive Development Plan for Waukesha County that are described in detail in Section 11(i)(2) below. Prior to submitting an application to rezone lands currently zoned FLP District, petitioners shall participate in a concept review meeting to be held with the respective town Planner and Waukesha County Planning & Zoning Staff to discuss proposed density and lot siting and compliance with the below stated requirements of this section.
2. Density. A maximum density of one (1) dwelling unit per thirty-five (35) acres shall be permitted for lands designated for Farmland Preservation on the adopted Comprehensive Development Plan for Waukesha County. Existing dwelling units and land divisions that have taken place after the dates specified below shall be used in computing available density. If only part of a parcel is within the County's shoreland jurisdictional area, the entire property's acreage, number of existing dwelling units and prior land divisions from parent parcels shall be considered in determining available density.
 - A. Density Considerations- land divisions after January 1, 1997: New lots or parcels of less than 35 acres that were created from a parent parcel or parcels that comprised a farm, as it existed on January 1, 1997, and that were located on lands designated "Agricultural Preservation" or "Farmland Preservation" at the time of land division on the Comprehensive Plan for Waukesha County, shall be counted in determining the available density or "development rights" remaining for a farm as it was configured on May 31, 2015. The number of available development rights shall be reduced by one development right for each such lot that was created after January 1, 1997. Farm boundaries, as of May 31, 2015, have been mapped on the "Farm Tracking Unit" layer on the Waukesha County GIS website in order to make available density information readily available. Density tracking is further described in Section 11(i)(2)(d).

Example: 105 acre farm comprised of two parcels in the same ownership.

Step 1- 35 Acre Density Calculation = 105 acres/35= 3 (Maximum number of dwelling units before consideration of existing dwelling units and recent land divisions).

Step 2- Account for existing dwelling units and land divisions that created parcels of less than 35 acres after January 1, 1997: The farm contains one house. (counts as one dwelling unit) and a lot of less than 35 acres was split from the farm by Certified Survey Map in 2001 (counts as second dwelling unit)= total of 2.

Step 3- Subtract total of Step 2 from Step 1 to adjust for existing dwelling units and parcels of less than 35 acres created since January 1, 1997. (3 minus 2= 1).

Summary- Available dwelling units/Development rights:
Farm is entitled to one additional dwelling unit or development right.

B. Density Exception for Legal Lots of Record that existed on May 31, 2015: Existing legal lots of record as of May 31, 2015 that are less than thirty-five (35) acres in size shall be entitled to one (1) dwelling unit if a dwelling unit does not already exist on the parcel, with the following exceptions:

2. If new lots or dwelling units have been created from a parent parcel or farm after 1997 without the benefit of a comprehensive development plan amendment from the Farmland Preservation category to another appropriate land use category, and thirty-five (35) acre density cannot be maintained with the addition of another dwelling unit, then no additional dwelling units are permitted.
3. If a prior imposed rezoning condition, deed restriction, conveyance, or some other official action prohibiting future land splits or dwelling units exists, then no additional dwelling units shall be permitted on said existing legal lot of record.

C. Review of Land Divisions. All land divisions, including transfers of adjacent land, that are proposed in towns that are subject to the Waukesha County Zoning Code and involve land that is in the planned “Farmland Preservation” category of the Comprehensive Development Plan for Waukesha County shall be reviewed and approved by the respective town and Waukesha County, regardless of whether the parcel contains shoreland jurisdiction, so that Development Plan density compliance can be ensured and tracked over time.

Each residence that is permitted shall be placed on a separately described parcel created in conformance with the town and County Comprehensive Development Plans, the Farmland Preservation Plan, the minor land division regulations of the town in which they are located, this Ordinance, and the Waukesha County Shoreland Floodland Subdivision Control Ordinance (Appendix D), as applicable.

- D. Density Tracking. Available density or dwelling units are tracked by a mapping layer on the Waukesha County Geographic Information System. Each farm consisting of one or more contiguous parcels that were owned by a common owner or owners as of May 31, 2015 have been assigned a “Farm tracking unit” name and number. Farm tracking units have been created to track the number of lots or dwelling units (development rights) that a farm or farm owner is entitled to when applying the density considerations of Section 11(i)(2)(a, b).

Each time that a new dwelling unit or lot is created in the future, in accordance with the standards of Section 11, the farm tracking unit data will be updated on the Waukesha County GIS. In addition, a deed restriction must be recorded against the land to disclose the remaining density available to a given farm tracking unit.

- E. Density Transfer. Transfer of density rights from one farm tracking unit to another farm tracking unit or property must be approved by the respective town and Waukesha County Zoning Administrator and will be tracked on the farm tracking unit Waukesha County GIS layer. A deed restriction must be recorded against the land to disclose the density transfer.

4. Siting Standards.

Lands that are zoned FLP but that are proposed to be rezoned to the R-1 District to accommodate new non-farm residences must comply with the following siting standards. Compliance with siting standards shall be considered by the town and Waukesha County as part of the rezoning review process.

- A. New residences or lots shall be located on uncultivated lands to the greatest extent practicable.
- B. New residences or lots shall be clustered together to the greatest extent practicable.
- C. New residences or lots shall be located on non-prime (non-Class I and II) soils to the greatest extent practicable.
- D. New residences or lots may be permitted within upland environmental corridor areas that are zoned FLP District with an EC Overlay District designation provided that the area to be disturbed is rezoned to the R-1 District and provided that the respective town and County have made a determination that alternative building sites located outside of the environmental corridor and cultivated lands are not available. If such a determination is made, the maximum area of environmental corridor disturbance shall be 15,000 square feet per lot, inclusive of drive areas, septic sites, building sites and any other area to be disturbed. In addition, any authorized disturbance within the environmental corridor shall comply with County Comprehensive Development Plan recommendations which call for no more than one dwelling unit per five acres of upland area. A deed restriction shall be recorded in the office of the Register of Deeds identifying and

describing the permitted area of environmental corridor disturbance prior to Zoning Permit issuance.

- E. Lots shall be located near existing roads to the extent practicable with consideration of the above stated criteria.

4. Lot Size requirements for Lots created by rezoning from the FLP District to the R-1 District

- A. Minimum parcel size, one (1) acre.
- B. Minimum average width for parcels, one hundred and fifty (150) feet.
- C. Maximum parcel size, three (3) acres, except as may be provided in Section 11(i)5 below for those residual existing dwellings and parcels that result due to farm consolidation.

5. Lot Size for Farm Consolidations created by rezoning from the FLP District to the R-1 District

- A. Minimum parcel size, one (1) acre.
- B. Minimum average width: One hundred and fifty (150) feet.
- C. Maximum parcel size, five (5) acres.

j. Rezoning land out of FLP District

- 6. Except as provided in Section 11(j)(2), lands may not be rezoned out of the FLP District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:

- A. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
- B. The rezoning is consistent with any applicable comprehensive plan.
- C. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.
- D. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

- 7. Subsection 11(j)(1) does not apply to any of the following:

- A. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.
- B. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

8. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLP District during the previous year and a map that clearly shows the location of those acres.

(Ord. of 11-5-1984, § VI)

(Ord. of 11-5-1984, § VIII)

(Section 11(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 11(c)5 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 10 FLC FARMLAND CONSERVANCY DISTRICT

(a) Purpose and intent

This district is intended to apply to those areas that are designated on the Comprehensive Development Plan for Waukesha County for Farmland Preservation and which are presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and/or the presence of natural vegetation indicative of wet soils. The intent of the district is to preserve and maintain agricultural uses on lands suited for such purposes. They often include lands poorly suited for urban or suburban development while being particularly well suited for some types of agricultural use.

In this district, structures related to farm operations, including existing dwellings, are deemed consistent with the purpose of this section where the location of buildings associated with the permitted agricultural operation is found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. Determination of such suitability shall be evidenced by on-site examination and evaluation. The intent for mapping purposes is that lands within this district shall have exhibited those agricultural uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. If a new lot of less than 35 acres is proposed and a portion of the lands to be included in the lot area are zoned FLC District, said lands may only be included within the lot area if the proposal complies with the siting, density, area, etc. parameters of the FLP District.

(b) Use regulations: Permitted uses

1. Any uses and structures permitted in the C-1 Conservancy district and if located in a wetland or floodplain, the provisions of Section 7(c)2 must be met.
2. Agricultural uses, as defined within this Ordinance.
3. Buildings normally associated with permitted agricultural operations including existing single-family dwellings and shelters for housing animals, except that no structure shall be located in a floodplain or wetland or upon lands not suited due to soil limitations. Any existing structures within floodlands must conform to Section 8 of this Ordinance.
4. Nurseries, greenhouses and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.
5. Road side stands, subject to the provisions of Section 11(d)(2)(E)

6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.
7. Any variance granted for structures located in the Floodplain shall meet the Floodplain criteria specified in Section 38 of this Ordinance.

(c) **Conditional uses**

Conditional uses, as provided in Section 4(g)(1) and listed below, and in accordance with the procedural requirements of Section 4(g) and the provisions of Section 11(e):

5. Landing Fields and Take Off Strips serving agricultural or municipal uses.
6. Commercial Fish or Bait Ponds or Hatcheries.
7. Fur Farms, Pig Farms, Creameries, Condensories, Commercial or Custom Grain Drying Operations.
8. Existing non-metallic mineral extraction or quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands which make up the major portion of lands in the FLP District (i.e., sand and gravel removal on non-productive lands, for example).

(d) **Building location**

3. Setback: Thirty-five (35) feet minimum
4. Offset: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

(e) **Height regulations**

1. Residential buildings:
 - A. Residence: Thirty-five (35) feet maximum.
 - B. Accessory: Twenty (20) feet maximum.
2. Farm buildings:
 - A. Sixty (60) feet maximum.
 - B. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, shore/C-1 setback, and offset all equal or exceed the height of the structure.
3. Refer to Section 3(i) of this Ordinance for additional height regulations.

(f) **Area regulations**

1. Floor area: Minimum required for single-family dwelling where permitted.
 - A. Minimum required:
 1. First floor: Nine hundred (900) square feet.
 2. Total, one (1) family: One thousand one hundred (1,100) square feet.
 - B. Minimum and maximum parcel size:

Parcel Size must comply with the parameters of Section 11(i)(4) and Section 11(i)(5).
 - C. Maximum floor area ratio permitted: Ten (10) percent

(g) **Rezoning land out of FLP District**

1. Except as provided in Section 10(g)(2), lands may not be rezoned out of the FLC District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - A. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - B. The rezoning is consistent with any applicable comprehensive plan.
 - C. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.
 - D. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
2. Subsection 10(g)(1) does not apply to any of the following:
 - A. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.
 - B. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
3. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLC District during the previous year and a map that clearly shows the location of those acres.

(Ord. No. 141-44, §§ XLVI, 7-22-1986)
 (Section 10(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)
 (Section 10(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)
 (Section 10(b)7 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)
 (Section 10(c) was amended by Enrolled Ordinance 165-69, effective 12-23-2010)
 (Section 10(e)2, formerly Section 6.05, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)
 (Section 10(f)2 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

Section 12 A-T Agricultural Land Preservation Transition District is hereby repealed and re-created as follows:

Section 12 A-T Agricultural Transition District

(a) Purpose and intent

This district is intended to reflect the transitional nature of lands that are currently in agricultural or open space use but are planned for and are likely to be developed for other land uses over time.

(b) Land to be included with A-T Agricultural Transition District:

1. Lands used for agricultural purposes.
2. Vacant lands consisting of fallow or natural resource lands.

(c) Use regulations: Permitted uses

Any permitted use as described in the A-1 Agricultural District.

(d) Conditional uses

Conditional uses as provided in Sections 4(g)1, 2, 7, 8, 9, 10, 12, 15, 23, 24, 25 and 28.

(e) Building location

1. Road Setback:

- | | | |
|----|-----------------------------|---|
| A. | Residential Use Structure: | Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. |
| B. | Accessory or Farm Building: | Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum. |

2. Offset:

- | | | |
|----|-----------------------------|--|
| A. | Residential Use Structure: | Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. |
| B. | Accessory or Farm Building: | Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum. |

(a) **Purpose and intent**

This district is intended to apply to those lands that are mapped as having hydric soil conditions (depth to groundwater of one foot or less) according to the Soil Survey of Milwaukee and Waukesha Counties published by the USDA Soil Conservation Service. Many of these lands contain wetlands and floodplains and, accordingly, are mapped with a C-1 Conservancy Overlay District designation. Other lands with such soil conditions are presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and the presence of natural vegetation indicative of wet soils.

The intent of the district is to preserve and maintain agricultural or open space uses on lands suited for such purposes. These lands are generally poorly suited for urban or suburban development, while lands outside of wetlands are typically better suited for some type of agricultural use. In this district, structures related to farm operations, including existing dwellings, are deemed consistent with the purpose and intent of this section where the location of buildings associated with the permitted agricultural operation are found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. The intent for mapping purposes is that lands within this district shall have exhibited agricultural uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. Lands mapped in this district are typically in the Planned "Other Open Lands to be Preserved" or "Environmental Corridor" comprehensive development plan categories.

(b) **Use regulations: Permitted uses**

1. Any uses and structures permitted in the C-1 Conservancy District and if located in a wetland or floodplain, the provisions of Section 7(c)2 must be met.
2. Ordinary farm uses, including dairying, livestock, poultry raising, and truck farming.
3. Accessory uses within buildings normally associated with permitted agricultural operations including existing single-family dwellings, shelters for housing animals, except that no structure shall be located in a floodplain or upon lands not suited due to soil limitations. Any existing structures within floodlands must conform to Section 8 of this Ordinance.
4. Nurseries, commercial greenhouses, and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.
5. Road side stands as outlined in Section 11(d)(2)(E) of this Ordinance.
6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.
7. Any variance granted for structures located in the floodplain shall meet the floodplain criteria specified in Section 38 of this Ordinance.

(c) **Conditional uses**

Conditional uses as provided in Section 4(g).

(d) **Building location**

1. Road Setback:

- | | | |
|----|--------------|---|
| A. | Residential: | Fifty (50) feet minimum, unless otherwise excepted in this Ordinance. |
| B. | Other: | Fifty (50) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum. |

2. Offset:

- | | | |
|----|--------------|--|
| A. | Residential: | Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. |
| B. | Other: | Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum. |

3. Shore/C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance. All accessory buildings must be seventy-five (75) feet minimum.

(e) **Height regulations**

4. Principal building: Thirty-five (35) feet maximum.
5. Accessory building: Fifteen (15) feet maximum.
6. Refer to Section 3(i) of this Ordinance for additional height regulations.

(f) **Area regulations**

1. Floor area, minimum required:
 1. Minimum first floor - nine hundred (900) square feet.
 2. Total - one thousand one hundred (1,100) square feet.
2. Maximum floor area ratio permitted: Ten (10) percent.
3. Minimum parcel size: Five (5) acres, except that for HG lands that lie within a larger parcel or tract of land, the remainder of which is zoned in any other district, said parcel shall comply with the minimum (gross) parcel size requirement of that non HG district.

(g) **Determination of boundaries**

Where on-site evaluation of soil conditions by a certified soil scientist reveals that soils mapped by the USDA as being hydric are found to be mis-mapped, the lands zoned HG District shall be immediately become subject to the district regulations of the zoning district that is mapped on the balance of the property. If no other zoning district has previously been established on another part of the parcel, the lands shall be zoned as used administratively by the Waukesha County Zoning Administrator. If any such lands are part of an environmental corridor, wetland or floodplain, the respective EC Environmental Corridor District Overlay or C-1 Conservancy Overlay shall continue to apply to said lands.

(Ord. No. 141-44, §§ XLVI, 7-22-1986)

(Section 10(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 10(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 10(b)7 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 10(c) was amended by Enrolled Ordinance 165-69, effective 12-23-2010).

(Section 10(e)2, formerly Section 6.05, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 10(f)2 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

Section 9.1 EC Environmental Corridor Overlay District is hereby created as follows:

Section 9.1 EC ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT

All parameters and requirements of Section 9 EC Environmental Corridor District shall apply to lands mapped EC Environmental Corridor Overlay District. Except for lands zoned FLP Farmland Preservation District, the underlying base zoning district designation standards shall only be applicable if an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped. Lands with an underlying zoning designation of FLP Farmland Preservation District shall comply with all more restrictive parameters of the FLP District but shall be allowed limited disturbance within EC areas if authorized in accordance with Section 11(i)(3)(d). All references to the EC District or EC Environmental Corridor District within this Ordinance shall also apply to the EC Environmental Corridor Overlay District.

Section 7.1 C-1 Conservancy Overlay District is hereby created as follows:

SECTION 7.1 C-1 CONSERVANCY OVERLAY DISTRICT

All parameters and requirements of Section 7 C-1 Conservancy District shall apply to lands mapped C-1 Conservancy Overlay District. The underlying base zoning district designation standards shall only be applicable if an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped. All references to the C-1 District or C-1 Conservancy District within this Ordinance shall also apply to the C-1 Conservancy Overlay District.

Miscellaneous Revisions:

Amend various references to the A-E District to either replace or include references to the HG High Groundwater District, as appropriate.

Revise references within the Conditional Use Section to reference new or amended zoning districts (FLP, FLC, AT, AE, HG), as appropriate.

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Definitions relating to farmland preservation to be created or to replace existing definitions within Zoning Code & Shoreland Ordinance:

(b) Definitions.

1. Agricultural Accessory Use: Any of the following land uses on a farm:
 - A. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
 - B. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - C. A farm residence that existed on May 31, 2015.

- D. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 - E. Any other use that DATCP, by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.
2. Agriculture-related use: Any of the following uses:
- A. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
 - B. Any other use that the department, by rule, identifies as an agriculture-related use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.
3. Agricultural Use: Any of the following uses:
- A. Any of the following activities conducted for the purpose of producing an income or livelihood:
 - 1. Crop or forage production.
 - 2. Keeping livestock.
 - 3. Beekeeping.
 - 4. Nursery, sod, or Christmas tree production.
 - 5. Floriculture.
 - 6. Aquaculture.
 - 7. Fur farming.
 - 8. Forest management.
 - 9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
 - B. Any other use that the department, by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.
4. Contiguous: When referred to in this ordinance in the context of farmland preservation provisions, contiguous lands or parcels shall mean adjacent to, sharing a common boundary and including lands that are separated by a road, stream or section line.
5. Development Right: A development right shall be synonymous with the number of dwelling units and new parcels of less than 35 acres that a farm tracking unit is entitled to.
6. Farm: All contiguous land under common ownership that is primarily devoted to agricultural use.

7. Farm acreage: The size of a farm in acres.
8. Farm consolidation: A division of land that includes a farm house or houses and associated agricultural buildings that includes a limited amount of land that was previously part of a larger farm.
9. Farmland preservation area: An area that is planned primarily for agricultural use or agriculture-related use, or both, and that is one of the following:
 - A. Identified as an agricultural preservation area in a farmland preservation plan described in s. 91.12(1), Stats.
 - B. Identified under s. 91.10(1)(d) in a farmland preservation plan described in s. 91.12(2), Stats.
10. Farmland preservation plan: A plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 stats.
11. Farm residence: Any of the following structures that is located on a farm:
 - A. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
 1. An owner or operator of the farm.
 2. A parent or child of an owner or operator of the farm.
 3. An individual who earns more than 50 percent of his or her gross income from the farm.
 4. A migrant labor camp that is certified under s. 103.92.
12. Farm Tracking Unit: One or more contiguous parcels that were part of a single farm or in the same ownership on May 31, 2015 that are designated on the Comprehensive Development Plan for Waukesha County as a Farmland Preservation Area.
13. Livestock: Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
14. Nonfarm residence: A single-family or multi-family residence other than a farm residence.
15. Parent parcel: The term parent parcel, when used is the Farmland Preservation District or Farmland Conservancy District, shall mean a parcel, as it existed, on January 1, 1997.
16. Permitted use: A use that is allowed without a conditional use permit, special exception, or other special zoning permission.